

ARTICLE 4 - GUIDES AND OUTFITTERS

23-2-401. Guides required; exceptions; issuance of resident guide license.

(a) No nonresident shall hunt big or trophy game animals on any designated wilderness area, as defined by federal or state law, in this state unless accompanied by a licensed professional guide or a resident guide. There shall be at least one (1) licensed professional guide or resident guide accompanying each two (2) nonresident hunters. The commission may also specify other areas of the state, or specific big or trophy game species, for which a licensed professional or resident guide is required for nonresidents, for purposes of proper game management, protection of hunter welfare and safety, or better enforcement of game and fish laws. The commission may allow licensed guides to accompany more than two (2) hunters but no more than six (6) hunters in specific areas.

(b) Any resident possessing a valid resident big or trophy game animal license may apply for and receive a resident guide license. The resident guide license shall be issued without charge or bond by the commission, any district supervisor or resident game warden upon receipt of an affidavit from the resident stating the names and addresses of the nonresident hunters to be guided, the game to be hunted, the area to be hunted, and that the resident has not received nor will accept directly or indirectly any compensation for his services as a guide. A resident guide shall not guide more than two (2) nonresident hunters in any calendar year on any national forest, wilderness area, national game refuge, or national park, except as provided in W.S. 23-2-401, nor shall he accept any compensation or gratuity for his services. An exchange of guide services shall not be considered compensation for the purposes of this section. The name and license number of the nonresident hunter shall be placed on the back of the resident guide license and stamped or signed by the issuer.

(c) A resident landowner may guide hunters on land owned by or deeded land leased to him without a guide license, or he may authorize nonresidents hunting without a guide on those lands. The license must bear the signature of the landowner, lessee, or agent of the owner on whose private property he is hunting as evidence that permission to hunt has been granted.

(d) Repealed By Laws 2000, Ch. 48, § 3.

23-2-402. Repealed By Laws 1989, ch. 279, § 2.

23-2-403. Repealed By Laws 1989, ch. 279, § 2.

23-2-404. Repealed By Laws 1989, ch. 279, § 2.

23-2-405. Repealed By Laws 1989, ch. 279, § 2.

23-2-406. Definitions.

(a) As used in this act:

(i) "Advertises" means attempting by any means, including the Internet, the World Wide Web or a similar proprietary or common carrier electronic system, to induce persons to enter into an agreement with an outfitter to receive guide or packing services;

(ii) "Board" means the Wyoming state board of outfitters and guides established under this act;

(iii) "Guide services" means for hire or remuneration, accompanying and providing assistance to a hunter in the field relating to the taking of any big or trophy game animal except as provided in W.S. 23-2-401(b) and (c);

(iv) "Outfitter" means a person including a hunting club, who advertises or holds himself out to the public for hire for the purpose of financial gain in order to provide guide or packing services for the purpose of taking any big or trophy game animal, excluding any person who furnishes pack or riding animals and other equipment only to a hunter for his personal temporary use and any landowner providing outfitter services on private lands owned or leased by him. As used in this paragraph:

(A) "Hunting club" means any person requiring dues or remuneration for providing personal services in the field for the taking of any big or trophy game animal;

(B) "Landowner" means any person, firm or corporation holding title to, or occupying under a contract of purchase, agricultural land or any person whose family owns at least a majority of the stock in a Wyoming corporation and who provides services specified in this paragraph on lands owned by the corporation and used primarily for agricultural purposes.

(v) "Outfitter of record" means the licensed outfitter designated by any unlicensed owner of an outfitting business who is specifically authorized to represent the outfitting business and is responsible and accountable for the operation of the outfitting business;

(vi) "Professional guide" means any person employed by or operating under an independent contract with a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities for the purpose of hunting animals except any person employed by a licensed outfitter solely to care for, groom or saddle livestock, cook, cut wood or to transport people, equipment and personal property;

(vii) "Packing services" means transporting for hire or remuneration, hunters, game animals or equipment in the field for the purpose of taking any big or trophy game animal;

(viii) "Take" means hunt, catch, capture, shoot, trap, kill or possess or attempt to hunt, catch, capture, shoot, trap, kill or possess any big or trophy game animal;

(ix) "This act" means W.S. 23-2-406 through 23-2-418.

23-2-407. License required for outfitters and professional guides.

(a) No person shall hold himself out as, engage in the business of or act in the capacity of an outfitter or shall provide guide services or packing services for the purpose of taking any big or trophy game animal unless he is licensed as an outfitter or professional guide pursuant to this act.

(b) No person engaged in the business of or acting in the capacity of an outfitter or a professional guide is entitled to maintain an action for compensation of outfitting or guiding services provided to any other person unless he is licensed under this act at the time of providing services.

(c) No person shall advertise outfitter or guide services to be performed in Wyoming without listing the Wyoming outfitter license number of one (1) or more outfitters who are contractually obligated to provide the services advertised. This subsection shall not apply to landowners as defined in W.S. 23-2-406(a)(iv)(B).

23-2-408. Wyoming state board of outfitters and professional guides; membership; meetings; compensation.

(a) The Wyoming state board of outfitters and professional guides is established within the department of administration and information and shall consist of seven (7) members as follows:

(i) Two (2) members appointed by the governor from the public-at-large who are not employed by and do not receive any income or compensation from outfitters or professional guides;

(ii) One (1) member of the Wyoming game and fish commission or its designated representative; and

(iii) Four (4) members representing a variety of types and sizes of outfitters appointed by the governor from a list of nominations submitted by licensed outfitters in Wyoming. Nominees shall be licensed outfitters or professional guides with not less than five (5) years experience in outfitting or professional guiding in this state. Two (2) nominees shall be submitted for each board vacancy and appointments shall rotate among game and fish commission appointment districts within the state.

(b) Appointed members shall be appointed by the governor with the advice and consent of the senate in accordance with W.S. 28-12-101 through 28-12-103 and may be removed by the governor as provided by W.S. 9-1-202. Except as otherwise provided for initial appointees, the term of an appointed member shall be three (3) years.

(c) If a vacancy occurs in the membership of any appointed term, the governor with the advice and consent of the senate shall appoint a member with qualifications similar to the member to be replaced, to serve the unexpired term of that member. Any vacancy occurring between sessions of the legislature may be filled by the governor in accordance with W.S. 28-12-101(b).

(d) The board shall select one (1) member to serve as chairman and one (1) member as vice-chairman. The terms of office shall not exceed one (1) year.

(e) The board shall meet upon the call of the chairman, at the call of a majority of board members or upon request of the governor. Four (4) members constitute a quorum.

(f) Appointed members of the board shall serve without compensation but when engaged in actual duties of the board, shall receive per diem and mileage as provided in W.S. 33-1-302(a)(vii).

(g) The board is transferred to the department of administration and information as a Type 3 transfer in accordance with W.S. 9-2-1707(b)(iii).

23-2-409. Legal representation.

The board may request the attorney general of this state to provide legal opinions or may employ an attorney to represent the board. Fees and expenses of the attorney general arising from such duties shall be paid from the account created by W.S. 23-2-414(d) if billed to the board by the attorney general.

23-2-410. Powers and duties of board; generally; employees; licensing and regulation.

(a) The board shall:

(i) Adopt an official seal;

(ii) Carry out the provisions of this act and in accordance with the Wyoming Administrative Procedure Act, adopt necessary rules and regulations for carrying out this act including requirements for training, experience and knowledge of relevant law and rules and regulations as may be imposed upon outfitters and professional guides, the content and requirements for examination of license applicants and other necessary and reasonable rules;

(iii) Report to the governor in accordance with W.S. 9-2-1014.

(b) The board may employ personnel as required to carry out this act and establish compensation for any employees subject to legislative budget authorization. The board may investigate alleged violations of this act, including but not limited to violations of W.S. 23-2-407(a). In enforcing this act and its rules and regulations, the board shall require investigators to receive peace officer training and qualification under W.S. 9-1-701 through 9-1-708.

(c) The board shall license and regulate outfitters and professional guides in this state and shall:

(i) Examine applicants for licensure under this act;

(ii) Deny or approve applications for licensure and may revoke or suspend licenses in accordance with this act and its rules and regulations;

(iii) Conduct hearings upon complaints received relative to licensees. The board may require the complainant to appear before the board in an investigation or a hearing the board conducts. The board may summarily dismiss a complaint upon failure of the complainant to appear or otherwise cooperate with the board;

(iv) Impose reasonable restrictions and limitations upon licensees as necessary to implement this act;

(v) Designate areas within the state as recommended by the commission for game management purposes in which a licensee may conduct outfitting or professional guiding under the license;

(vi) Repealed by Laws 1991, ch. 156, § 2.

(d) Unless a court issues a search warrant based on probable cause that a private property owner is engaged in illegal outfitting activities, investigators of the board shall not enter onto private property without express permission from the property owner. The board shall not require private landowners to sign an authorization form for outfitters licensed by the board to enter lands owned by the person.

23-2-411. Outfitter qualifications for licensure; licensed outfitter may act as professional guide; required reporting of criminal history.

(a) An applicant for an outfitter's license shall in addition to any other criteria imposed by rule and regulation of the board, possess the following qualifications:

(i) At least eighteen (18) years of age;

(ii) Experience as a licensed professional guide for not less than one (1) year or similar experience accepted by the board;

(iii) Possess through ownership, lease or as a representative of an owner or lessee, equipment and facilities necessary to the type of services the applicant offers and applicable to the area conditions in which the applicant operates;

(iv) Repealed by Laws 1991, ch. 156, § 2.

(v) Repealed by Laws 1991, ch. 156, § 2.

(vi) Have committed no violations of W.S. 23-2-416(a).

(b) Any person holding an outfitter's license under this act may operate as a professional guide without holding a separate professional guide's license.

(c) In addition to subsection (a) of this section, an applicant for an outfitter's license shall report:

(i) Any conviction or forfeiture of any bond amount for a violation of federal or state law or applicable regulation relating to wildlife, game and fish within five (5) years before the date of filing license application;

(ii) Any felony conviction; and

(iii) Any conviction for a violation of federal or state law relating to criminal fraud and occurring within five (5) years prior to the date of filing application.

23-2-412. Qualifications for professional guide's license; valid during employment by outfitter only.

(a) An applicant for a professional guide's license under this act shall meet the following qualifications:

(i) At least eighteen (18) years of age;

(ii) Employed by or operating under an independent contract with a licensed outfitter;

(iii) Repealed by Laws 1991, ch. 156, § 2.

(iv) Repealed by Laws 1991, ch. 156, § 2.

(v) Have committed no violations of W.S. 23-2-416(a).

(b) A professional guide's license issued under this act is valid only while the licensee is employed by or operating under an independent contract with a licensed outfitter.

(c) Once in every twelve (12) month period, an applicant may receive a license allowing him to provide guiding services under this act for not more than fourteen (14) consecutive days by paying the fee set forth in W.S. 23-2-414.

(d) A licensed outfitter contracting with a professional guide for guiding services shall be responsible for the conduct of the independent contractor guide as if he were an employee.

(e) In addition to subsection (a) of this section, an applicant for a professional guide's license shall report:

(i) Any conviction or forfeiture of any bond amount for a violation of federal or state law or applicable regulation relating to wildlife, game and fish within five (5) years before the date of filing license application;

(ii) Any felony conviction; and

(iii) Any conviction for a violation of federal or state law relating to criminal fraud and occurring within five (5) years prior to the date of filing application.

23-2-413. Application for licensure; fee; required examination; investigation by board; liability insurance required for outfitters.

(a) Application for a license authorized by this act shall be made upon a form prescribed and furnished by the board, contain information required by the board and be signed by the applicant. The board may impose an application fee of not to exceed a reasonable amount necessary to defray the costs incurred in processing the application, administering the examination required by this section and conducting necessary investigation.

(b) Each applicant for a license under this act shall submit to examination by the board. The examination shall be administered by the board and shall:

(i) Be standardized for each type of license issued under this act;

(ii) Require sufficient knowledge of the services to be provided under the license;

(iii) Test the ability of the applicant to perform services under the license in a safe manner; and

(iv) Require special knowledge applicable to the particular type of license for which application is made.

(c) In addition to examination under subsection (b) of this section, the board may investigate the qualifications of the applicant to ensure compliance with this act.

(d) The board shall require the applicant for a license under this section to post and maintain a liability insurance policy to protect clients and property owners against injury or damage as a result of negligence by outfitters or their agents or employees. The limits of coverage shall be not less than twenty-five thousand dollars (\$25,000.00) for property damage and for personal injury or death, not less than one hundred thousand dollars (\$100,000.00) for injury to or death of one (1) person and not less than three hundred thousand dollars (\$300,000.00) for all injuries or death from any one (1) occurrence.

23-2-414. License issuance; fees; term of license; renewal; disposition of collected fees.

(a) Upon passage of required examination and if it determines the applicant is otherwise in compliance with the requirements of this act and its rules and regulations, the board may issue a license upon payment of the applicable fee as established by the board pursuant to W.S. 33-1-201.

(i) Repealed By Laws 1998, ch. 59, § 2.

(ii) Repealed By Laws 1998, ch. 59, § 2.

(iii) Repealed By Laws 1998, ch. 59, § 2.

(b) A license issued under this act is valid for the calendar year in which issued and shall expire on December 31 of that year unless earlier expiring pursuant to W.S. 23-2-412(b) or otherwise suspended or revoked.

(c) A license may be renewed upon submission of application with the board in accordance with its rules and regulations and payment of the appropriate fee prescribed under subsection (a) of this section.

(d) All fees collected by the board pursuant to this act shall be deposited with the state treasurer. Upon receipt, the state treasurer shall credit the revenues to an account within the trust and agency fund. Expenditures from the account shall be for expenses incurred by the board in administering this act.

23-2-415. Licensed outfitters and professional guides to report violations.

An outfitter or professional guide licensed under this act shall promptly report any violation of federal or state law or regulation governing wildlife, game and fish observed by him to any commissioned game and fish law enforcement officer, a representative of the involved federal land management agency or to the board.

23-2-416. License suspension and revocation; grounds; payment of damages; proceedings.

(a) The board may require a licensee to pay damages as provided by subsection (b) of this section, may refuse to issue or renew or may suspend or revoke a license issued under this act or may otherwise discipline a licensee for any of the following causes:

(i) Fraud or substantial misrepresentation in obtaining a license under this act;

(ii) Fraudulent advertising;

(iii) Conviction of a felony that relates to the practice of professional guiding or outfitting or to the ability to practice as a professional guide or outfitter;

(iv) Violation of any significant federal or state law or related regulations pertaining to wildlife, game and fish;

(v) Unethical or dishonorable conduct;

(vi) A substantial breach of contract with any person using outfitting or professional guiding services of the licensee;

(vii) Willful violation of the terms and conditions under which the license is issued;

(viii) Inhumane treatment of any animal;

(ix) Willfully endangering the health and safety of any person;

(x) Violation of this act or any rule or regulation of the board.

(b) If a client of an outfitter or professional guide licensed under this act is injured by any of the causes specified under subsection (a) of this section, the board may require the outfitter or guide as a condition of returning his license, to pay to the client any court ordered damages including any:

(i) Fees paid by the client to the outfitter or guide;

(ii) Actual travel and lodging expenses incurred by the client in attempting to use the outfitter's or guide's services; and

(iii) Other actual expenses incurred by the client in attempting to use the outfitter's or guide's services.

(c) Except as provided in subsection (d) of this section, suspension and revocation proceedings under this section shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(d) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction in accordance with the terms of the court order. No appeal under the Wyoming Administrative Procedure Act shall be allowed for a license withheld, suspended or restricted under this subsection.

23-2-417. Violations in general; penalties.

(a) Except as provided in subsection (c) of this section, any person violating any provision of this act is guilty of a misdemeanor punishable by a fine of not to exceed five thousand dollars (\$5,000.00).

(b) In addition to subsection (a) of this section, the court may in its discretion, revoke any license issued under this act or W.S. 23-1-101 through 23-6-208, to any person violating this act, for the remainder of the year in which the conviction occurs, and may suspend the person's privilege to receive any license under this act or under W.S. 23-1-101 through 23-6-208, for a period not to exceed five (5) years.

(c) Any person violating W.S. 23-2-407 is guilty of a misdemeanor punishable by a fine of not to exceed seven thousand five hundred dollars (\$7,500.00), imprisonment for not more than one (1) year, or both.

23-2-418. Compensation of person not licensed under this act prohibited; penalty.

(a) No person shall directly or indirectly compensate a person holding himself out as engaging in the business of or acting in the capacity of an outfitter or a professional guide unless that person provides proof that he is a licensed outfitter or professional guide as required by this act.

(b) Any person violating this section is guilty of a misdemeanor as prescribed under W.S. 23-2-417(a).